

AMENDED IN ASSEMBLY APRIL 7, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1252

Introduced by Assembly Member Jackson

February 21, 2003

An act to amend ~~Section~~ *Sections 1639, 1679, 1781.3, and 10234.93* of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1252, as amended, Jackson. Insurance.

Existing law provides that a fire and casualty broker-agent license may be issued to a nonresident of this state if the nonresident is duly licensed to transact more than one class of insurance, with certain exceptions, under the laws of the state or province of Canada where he or she maintains a resident license to transact insurance.

This bill would, in addition, apply this provision to a nonresident who maintains a resident license to transact insurance in a territory of the United States.

Under existing law, a nonresident applicant for a license to transact insurance is subject to the same qualifying examination as is required of a resident applicant, except in specified circumstances. Existing law exempts from this requirement a nonresident applicant who resides in a jurisdiction that grants reciprocity to California residents, as specified.

This bill would, instead, exempt from this requirement a nonresident applicant who maintains a license in a jurisdiction that grants this reciprocity.

Existing law allows the Insurance Commissioner to issue a license to act as a reinsurance intermediary, as defined, to a person who has complied with the applicable requirements. Existing law imposes on nonresident applicants for reinsurance intermediary licenses additional requirements involving designation of service of process and information and notifications to be provided to the commissioner, as specified.

This bill would eliminate the additional requirements applicable to nonresident applicants for reinsurance intermediary licenses.

Existing law requires an insurer of long-term care in California to provide specified continuing education to agents and insurer representatives authorized to solicit individual consumers for the sale of long-term care insurance.

This bill would rename various continuing education requirements as training.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 1639 of the Insurance Code is amended*
2 *to read:*

3 1639. The following types of licenses under this chapter may
4 be issued to nonresidents:

5 (a) A fire and casualty broker-agent if the nonresident is duly
6 licensed to transact more than one class of insurance, other than
7 life insurance, disability insurance, title insurance, or life and
8 disability insurance, under the laws of the state, *territory of the*
9 *United States*, or province of Canada where he or she maintains a
10 resident license to transact insurance.

11 (b) A personal lines broker-agent if the nonresident is duly
12 licensed to transact those lines of insurance described in Section
13 1625.5, under the laws of the state, territory of the United States,
14 or province of Canada where the resident license is maintained.

15 (c) A life agent if the nonresident possesses a resident license
16 in another state, territory of the United States, or province of
17 Canada to transact life insurance or disability insurance.

18 (d) A nonresident life agent may be granted authority to
19 transact variable contracts if he or she has been granted that
20 authority by the state where the resident license is maintained.

(e) A surplus line broker and a special lines surplus broker if the nonresident holds that type of license in the state or territory of the United States where the resident license is maintained.

(f) A credit insurance agent if the nonresident holds that type of license in the state, territory of the United States, or province of Canada where the resident license is maintained.

(g) A rental car agent if the nonresident holds that type of license in the state, territory of the United States, or province of Canada where the resident license is maintained.

(h) A cargo shipper's agent if the nonresident holds that type of license in the state, territory of the United States, or province of Canada where the resident license is maintained.

(i) A limited lines license if the nonresident holds that type of license in the state, territory of the United States, or province of Canada where the resident license is maintained. As used in this section, "limited lines license" means any authority granted by the resident state that restricts the authority of the license to less than the total authority granted by any of the types of licenses identified in this section.

SEC. 2. *Section 1679 of the Insurance Code is amended to read:*

1679. (a) A nonresident applicant for a license shall be subject to the same qualifying examination as is required of a resident applicant. ~~Such~~ The examination may be administered to an eligible nonresident applicant through the insurance authority of the state, territory of the United States, or province of Canada of his or her residence; provided, however, that the commissioner may, in his or her discretion, enter into a reciprocal arrangement with the officer having supervision of the insurance business in any other state, territory of the United States, or province of Canada whose qualification standards for the applicant to be examined are substantially the same as or in excess of those of this state, to accept, in lieu of the examination of an applicant residing therein, a certificate of ~~such~~ the officer to the effect that the applicant is licensed in that state, territory of the United States, or province of Canada in a capacity similar to that for which a license is sought in this state and has complied with its qualification standards in respect to the following:

~~(a)~~

(1) Experience or training,

1 ~~(b)~~

2 (2) Reasonable familiarity with the broad principles of
3 insurance licensing and regulatory laws and with the provisions,
4 terms and conditions of the insurance which the applicant proposes
5 to transact, and

6 ~~(e)~~

7 (3) A fair and general understanding of the obligations and
8 duties of a holder of the license sought.

9 ~~(d)~~

10 (b) The provisions of this section shall not apply to a
11 nonresident applicant who ~~resides~~ *maintains a license* in a
12 jurisdiction that grants reciprocity to California residents in
13 accordance with Section 1638.5.

14 *SEC. 3. Section 1781.3 of the Insurance Code is amended to*
15 *read:*

16 1781.3. (a) No person, firm, association, or corporation shall
17 act as a reinsurance intermediary-broker in this state unless
18 licensed as follows:

19 (1) If the reinsurance intermediary-broker maintains an office,
20 (either directly or as a member or employee of a firm or
21 association, or an officer, director, or employee of a corporation)
22 in this state, the reinsurance intermediary-broker shall be a
23 licensed producer in this state.

24 (2) If the reinsurance intermediary-broker does not maintain an
25 office in this state, the reinsurance intermediary-broker shall be a
26 licensed producer in this state or another state having a law
27 substantially similar to this chapter or shall be licensed in this state
28 as a nonresident reinsurance intermediary.

29 (3) Unless denied licensure pursuant to subdivision (e), a
30 nonresident person shall receive a reinsurance
31 intermediary-broker license if all of the following requirements
32 are met:

33 (A) The person is currently licensed and in good standing in the
34 state, territory of the United States, or province of Canada where
35 he or she is licensed as a resident reinsurance intermediary-broker.

36 (B) The person has submitted the proper request for licensure
37 and has paid the fees required by paragraph (3) of subdivision (d).

38 (C) The person has submitted or transmitted to the
39 commissioner the application for licensure that the person
40 submitted to the state, territory of the United States, or province

1 of Canada where he or she is licensed as a resident, or submitted
2 or transmitted to the commissioner a completed National
3 Association of Insurance Commissioners Uniform Nonresident
4 Application.

5 (D) The state, territory of the United States, or province of
6 Canada where the person holds a resident reinsurance
7 intermediary-broker license awards nonresident reinsurance
8 intermediary-broker licenses to residents of this state on the same
9 basis.

10 (b) No person, firm, association, or corporation shall act as a
11 reinsurance intermediary-manager:

12 (1) For a reinsurer domiciled in this state, unless the
13 reinsurance intermediary-manager is a licensed producer in this
14 state.

15 (2) In this state, if the reinsurance intermediary-manager
16 maintains an office either directly or as a member or employee of
17 a firm or association, or as an officer, director, or employee of a
18 corporation in this state, unless the reinsurance
19 intermediary-manager is a licensed producer in this state.

20 (3) In another state for a nondomestic admitted insurer, unless
21 the reinsurance intermediary-manager is a licensed producer in
22 this state or in another state having a law substantially similar to
23 this chapter or the person is licensed in this state as a nonresident
24 reinsurance intermediary.

25 (4) Unless denied licensure pursuant to subdivision (e), a
26 nonresident person shall receive a reinsurance
27 intermediary-manager license if all of the following requirements
28 are met:

29 (A) The person is currently licensed and in good standing in the
30 state, territory of the United States, or province of Canada where
31 he or she is licensed as a resident reinsurance
32 intermediary-manager.

33 (B) The person has submitted the proper request for licensure
34 and has paid the fees required by paragraph (3) of subdivision (d).

35 (C) The person has submitted or transmitted to the
36 commissioner the application for licensure that the person
37 submitted to the state, territory of the United States, or province
38 of Canada where he or she is licensed as a resident, or submitted
39 or transmitted to the commissioner a completed National

1 Association of Insurance Commissioners Uniform Nonresident
2 Application.

3 (D) The state, territory of the United States, or province of
4 Canada where the person holds a resident reinsurance
5 intermediary-manager license awards nonresident reinsurance
6 intermediary-manager licenses to residents of this state on the
7 same basis.

8 (c) The commissioner may require a reinsurance
9 intermediary-manager subject to subdivision (b) to do both of the
10 following:

11 (1) File a fidelity bond issued by an admitted surety in an
12 amount determined by the commissioner for the protection of the
13 reinsurer.

14 (2) Maintain an errors and omissions policy in an amount
15 acceptable to the commissioner.

16 (d) (1) The commissioner may issue a reinsurance
17 intermediary license to any person, firm, association, or
18 corporation that has complied with the applicable requirements of
19 this chapter. This license, when issued to a firm or association,
20 authorizes all the members of the firm or association and any
21 designated employees to act as reinsurance intermediaries under
22 the license, and all these persons shall be named in the application
23 and any supplements thereto. This license, when issued to a
24 corporation, authorizes all of the officers, and any designated
25 employees and directors thereof to act as reinsurance
26 intermediaries on behalf of the corporation, and all these persons
27 shall be named in the application and any supplements thereto.

28 (2) ~~If the applicant for a reinsurance intermediary license is a~~
29 ~~nonresident, it shall be a condition precedent to receiving or~~
30 ~~holding a license that (A) the applicant shall designate the~~
31 ~~commissioner as his or her agent for service of process in the~~
32 ~~manner, and with the same legal effect, provided for by this chapter~~
33 ~~for designation of service of process upon unauthorized insurers~~
34 ~~and (B) the applicant shall furnish the commissioner with the name~~
35 ~~and address of a resident of this state upon whom notices or orders~~
36 ~~of the commissioner or process affecting the applicant as a~~
37 ~~nonresident reinsurance intermediary may be served. A licensee~~
38 ~~subject to this paragraph shall promptly notify the commissioner~~
39 ~~in writing of every change in its designated agent for service of~~



1 ~~process, and any change shall not become effective until~~
2 ~~acknowledged by the commissioner.~~

3 ~~(3) Any application for licensure as a reinsurance intermediary~~
4 ~~under this subdivision shall be made on a form prescribed by the~~
5 ~~commissioner and shall be accompanied by an application fee of~~
6 ~~two hundred fifty dollars (\$250).~~

7 (e) The commissioner may refuse to issue a reinsurance
8 intermediary license if, in his or her judgment, the applicant, any
9 person named on the application, or any member, principal,
10 officer, or director of the applicant, is determined by the
11 commissioner not to be trustworthy, or that any controlling person
12 of the applicant is not trustworthy to act as a reinsurance
13 intermediary, or that any of the foregoing has given cause for
14 revocation or suspension of a reinsurance intermediary license, or
15 has failed to comply with any prerequisite for the issuance of such
16 a license. Upon written request therefor, the commissioner shall
17 furnish the applicant with a summary of the basis for refusal to
18 issue a reinsurance intermediary license, which document shall not
19 be subject to inspection as a public record.

20 (f) Licensed attorneys at law when acting in their professional
21 capacity as such shall be exempt from this section.

22 (g) A reinsurance intermediary-manager, when acting in that
23 capacity and in compliance with this chapter, shall not be required
24 to separately comply with Article 5.4 (commencing with Section
25 769.80) of Chapter 1 (if added by Senate Bill 1039 of the 1991–92
26 Regular Session) in order to engage in conduct authorized by both
27 this chapter and that article.

28 *SEC. 4.* Section 10234.93 of the Insurance Code is amended
29 to read:

30 10234.93. (a) Every insurer of long-term care in California
31 shall:

32 (1) Establish marketing procedures to assure that any
33 comparison of policies by its agents or other producers will be fair
34 and accurate.

35 (2) Establish marketing procedures to assure excessive
36 insurance is not sold or issued.

37 (3) Submit to the commissioner within six months of the
38 effective date of this act, a list of all agents or other insurer
39 representatives authorized to solicit individual consumers for the

1 sale of long-term care insurance. These submissions shall be
2 updated at least semiannually.

3 (4) Provide the following training and require that each agent
4 or other insurer representative authorized to solicit individual
5 consumers for the sale of long-term care insurance shall
6 satisfactorily complete the following training requirements that,
7 for resident licensees, shall be part of, and not in addition to, the
8 continuing education requirements in Section 1749.3:

9 (A) For licensees issued a license after January 1, 1992, eight
10 hours of training in each of the first four 12-month periods
11 beginning from the date of original license issuance and thereafter
12 and eight hours of training prior to each license renewal.

13 (B) For licensees issued a license before January 1, 1992, eight
14 hours of training prior to each license renewal.

15 (C) For nonresident licensees that are not otherwise subject to
16 the continuing education requirements set forth in Section 1749.3,
17 the evidence of training required by this section shall be filed with
18 and approved by the commissioner as provided in subdivision (g)
19 of Section 1749.4.

20 Licensees shall complete the initial training requirements of this
21 section prior to being authorized to solicit individual consumers
22 for the sale of long-term care insurance.

23 The training required by this section shall consist of topics
24 related to long-term care services and long-term care insurance,
25 including, but not limited to, California regulations and
26 requirements, available long-term care services and facilities,
27 changes or improvements in services or facilities, and alternatives
28 to the purchase of private long-term care insurance. On or before
29 July 1, 1998, the following additional training topics shall be
30 required: differences in eligibility for benefits and tax treatment
31 between policies intended to be federally qualified and those not
32 intended to be federally qualified, the effect of inflation in eroding
33 the value of benefits and the importance of inflation protection,
34 and NAIC consumer suitability standards and guidelines.

35 (5) Display prominently on page one of the policy or certificate
36 and the outline of coverage: "Notice to buyer: This policy may not
37 cover all of the costs associated with long-term care incurred by
38 the buyer during the period of coverage. The buyer is advised to
39 review carefully all policy limitations."

1 (6) Inquire and otherwise make every reasonable effort to
2 identify whether a prospective applicant or enrollee for long-term
3 care insurance already has accident and sickness or long-term care
4 insurance and the types and amounts of any such insurance.

5 (7) Every insurer or entity marketing long-term care insurance
6 shall establish auditable procedures for verifying compliance with
7 this subdivision.

8 (8) Every insurer shall provide to a prospective applicant, at the
9 time of solicitation, written notice that the Health Insurance
10 Counseling and Advocacy Program (HICAP) provides health
11 insurance counseling to senior California residents free of charge.
12 Every agent shall provide the name, address, and telephone
13 number of the local HICAP program and the statewide HICAP
14 number, 1-800-434-0222.

15 (9) Provide a copy of the long-term care insurance shoppers
16 guide developed by the California Department of Aging to each
17 prospective applicant prior to the presentation of an application or
18 enrollment form for insurance.

19 (b) In addition to other unfair trade practices, including those
20 identified in this code, the following acts and practices are
21 prohibited:

22 (1) Twisting. Knowingly making any misleading
23 representation or incomplete or fraudulent comparison of any
24 insurance policies or insurers for the purpose of inducing, or
25 tending to induce, any person to lapse, forfeit, surrender,
26 terminate, retain, pledge, assign, borrow on, or convert any
27 insurance policy or to take out a policy of insurance with another
28 insurer.

29 (2) High pressure tactics. Employing any method of marketing
30 having the effect of or tending to induce the purchase of insurance
31 through force, fright, threat, whether explicit or implied, or undue
32 pressure to purchase or recommend the purchase of insurance.

33 (3) Cold lead advertising. Making use directly or indirectly of
34 any method of marketing which fails to disclose in a conspicuous
35 manner that a purpose of the method of marketing is solicitation
36 of insurance and that contact will be made by an insurance agent
37 or insurance company.

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